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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,273	03/05/2001	Mark W. Publicover	5578-58206/RJP	3749

7590 06/30/2011  
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EXAMINER
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DONNELLY, JEROME W

ART UNIT	PAPER NUMBER
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3764

MAIL DATE	DELIVERY MODE
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06/30/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/800,273	<b>Applicant(s)</b> PUBLICCOVER ET AL.	
	<b>Examiner</b> JEROME W. DONNELLY	<b>Art Unit</b> 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 65,68 and 71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 65,68 and 71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                          |

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### DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 65 and 71 rejected under 35 U.S.C. 103(a) as being unpatentable over bailey

1. Bailey discloses a device having at least 8 inverted U shaped poles said poles each being separated by an adjacent U shaped pole , said device having a mat, springs , wherein some of the poles are spaced apart by other poles and an expanse of flexible material is supported above the mat by the plurality of independent inverted U shaped poles.

- 2.

3. Bailey discloses a device comprising poles between the range of approximately 5-8 ft as disclosed by the drawings of Bailey. As to manufacturing the device of Bailey including poles of a height between 5-8 ft the examiner notes that this height would have been obvious so as to maintain a user of the device within the confines of the device when bouncing and exercising.

4. Claim 68 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baily in view of Wu 4386772

5. Bailey discloses the device of claim 68 substantially as claimed absent the device including a protective covering/padding located on upper ends.

- 6.

7. Wu teaches providing padding on the framework of a trampoline.

- 8.

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9. Given the above teaching the examiner notes that it would have been obvious to one of ordinary skill in art to provide a covering/pad on the components of which a user may come in contact with, for the purpose of protecting a user from undue contact with the hard framework of the trampoline components.

10.

11. Applicant's remarks have been considered however they are not deemed convincing and the claims are not considered as none obvious.

12.

13. In response to applicants claims that the prior art does not show spaced apart poles the examiner considers every other pole as being spaced apart from another pole, not immediately adjacently spaced poles

14.

15. Applicant's arguments have been fully considered however the arguments are not directed to limitations which are specifically claimed. The applicant is repeatedly referring to the specification and the functionality of the device and not the claimed structure, when pointing out the differences between the prior art and the instantly claimed invention. Allowable limitations and arguments should be based on limitations in the claims and not disclosures in the specification.

16.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEROME w. DONNELLY whose telephone number is (571)272-4975. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, loan than can be reached on 5712724966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JEROME w DONNELLY  
Primary Examiner  
Art Unit 3764

/JEROME w DONNELLY/

Primary Examiner, Art Unit 3764

17.